REMARKS

Restriction was required under 35 U.S.C. § 121 and 372 from the following groups of inventions:

Group I: Claims 1-10, 14-15 and 17, drawn to a method for assessing predisposition to cardiovascular pathologies.

Group II: Claims 11-13, 16, 18 and 19, drawn to a kit.

Response to Restriction Requirement

Applicants elect Group I encompassing Claims 1-10, 14-15 and 17, drawn to a method for assessing predisposition to cardiovascular pathologies, with traverse.

Traversal of Requirement

Notwithstanding the foregoing election, Applicants traverse the requirement insofar as it requires election between Groups I and II, because the inventions do relate to a single general inventive concept as envisaged by PCT Rule 13.1 and Rule 13.2.

The Office Action states that Groups I and II do not relate to a single general inventive concept under Rule 13.1 because, under Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The kit does not provide a contribution over the prior art because it was already known in the prior art, for example Stanton et al. U.S. Publication No. 20010034023 at paragraphs [0088]-[0092], Table 4 and Claim 138 at page 208.

In fact, method Claim 1 and kit Claim 11 incorporate the same technical feature (i.e., the detection of a mutation at position 436 of SEQ ID NO: 1. Stanton et al does not disclose this limitation. Claim 138 of Stanton et al. refers to the sequences in Tables 1, 3 and 4. Tables 3 and 4 include mutations that are only within the open reading frame of the COX-2 sequence (e.g., see Table 3, pages 114, 181 and 184-185, and Table 4, page 201, left column: "U04636.....Cyclooxigenase 2, **not including the promoter** [emphasis added]). On the other hand, the present invention describes a method and a kit for detecting a mutation predisposing to cardiovascular disease, in the promoter region of COX-2. The correspondence between position 436 of SEQ ID NO: 1 and position -765 of the COX-2 promoter is described in the present Specification as filed at page 4, lines 3-8, which recites:

> "*Polymorphism at position 436 of seq IDN1 (COX-2 gene)*: referred to the polymorphism in the COX-2 gene promotor at position -765 from the transcription start site, described by Papafili et al., Arterioscler Thromb Vasc Biol. 2002; 22:1631-1636. In the present invention, it is defined as *wild type* sequence the one presenting a G in position nº 436 of seq IDN1 and comprised within the sequence (CCCGCC)."

Thus, the prior art does not disclose the special technical feature common to Groups I and II, which is detection of the mutation at position -765 of the COX-2 promoter. As such, Applicants respectfully request that the restriction requirement be withdrawn.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: December 8, 2008

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